



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 28, 2022

Mr. R. Brooks Moore
Deputy General Counsel
The Texas A&M University System
301 West Tarrow Street, 6th Floor
College Station, Texas 77840-7896

OR2022-33426

Dear Mr. Moore:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the “Act”), chapter 552 of the Government Code. Your request was assigned ID# 980853 (ORR# G001959).

Texas A&M University (the “university”) received a request for a specified incident report. The university indicates it will withhold information pursuant to section 552.130(c) of the Government Code.¹ The university claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses the common-law physical safety exception that the Texas Supreme Court recognized in *Texas Department of Public Safety v. Cox Texas Newspapers, L.P. & Hearst Newspapers, L.L.C.*, 343 S.W.3d 112, 117 (Tex. 2011) (“freedom from physical harm is an independent interest protected under law, untethered to the right of privacy”). In the *Cox* decision, the Supreme Court recognized, for the first time, a common-law physical safety exception to required disclosure. *Cox*, 343 S.W.3d at 118. Pursuant to this common-law physical safety exception, the court determined “information may be withheld [from public release] if disclosure would create a substantial

¹ Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov’t Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

threat of physical harm.” *Id.* In applying this new standard, the court noted “deference must be afforded” law enforcement experts regarding the probability of harm, but further cautioned “vague assertions of risk will not carry the day.” *Id.* at 119. The department university asserts release of the information it has marked would create a substantial threat of physical harm to the individual whose information is at issue. Upon review, we agree the university must withhold the information it has marked under section 552.101 of the Government Code in conjunction with the common-law physical safety exception. The department must release the remaining information.²

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 980853

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² Because the requestor has a special right of access to some of the information being released, the university must again seek a decision from this office if it receives a request for the same information from another requestor.